

acceptance among the medical profession. . . . The American Medical Association is your ally in our efforts to improve health and fight disease. There never was a more worthwhile campaign. Best wishes to you.”—DR. F. J. L. BLASINGAME, *Vice-President and General Manager*, American Medical Association.

“The American Association of Medical Assistants is doing a job that would do justice to an organization ten times its size.”—DR. MORRIS FISHBEIN.

“The American Association of Medical Assistants has accomplished much, but there is a long road ahead—with a brilliant future. You have won the confidence of the American Physician. . . . Because of A.A.M.A., what has been a common occupation is developing into an uncommon profession.”—DR. FRED STERNAGEL, *A.A.M.A. Advisor*, Iowa.

“Your many outstanding contributions to the progress of medical treatment and research merit the gratitude of all Californians.”—GOODWIN J. KNIGHT, *former Governor of California*, in a telegram to A.A.M.A., Annual Convention, San Francisco, 1957.

“Your code of ethics and obligation in acceptance of membership in your organization indicate that your purposes are of the highest caliber. . . . I should say, personally, that that doctor is fortunate, indeed, who has an assistant who is earnestly following your written aims.”—DR. HERMAN A. IVERSON, *Past President*, Humboldt-Del Norte County Medical Society.

“Your jobs are the most important position in the entire private practice of medicine. Few of us doctors keep in mind the importance of our medical assistants who have to keep our offices running smoothly and pleasantly until something happens to keep them from the office—that is a real disaster.”—From “The Perfect Medical Assistant,” DR. JAMES B. GRAESER, C.M.A.A. Symposium, Hotel Claremont, Berkeley, September 28, 1958.

“The doctors in Santa Clara County should consider themselves fortunate that there is here an active chapter of the American Association of Medical Assistants. Theirs is a society dedicated *not* to ways and means of getting more pay or to improving their working conditions, but to ways of improving themselves so that they can do a better job for [physicians]. They are learning better public and patient relations, more efficient ways of getting their jobs done, and ways to help [physicians] better serve their patients. We should give all the encouragement we can, not only for our aides to join this Society of Medical Assistants but to attend meetings. This encouragement should not only be in the form of persuasion or suggestions, but also financial. Pay her initiation fee, pay her yearly dues,

and also for her meals that go along with their monthly meetings. The two, three, or even four dollars a month will not mean nearly as much to you as it does to her; and, besides, inasmuch as it is for the betterment of our offices, it should be considered an office expense.”—DR. LELAND B. BLANCHARD, San Jose, California.

---

## New Mental Hygiene Director

DR. DANIEL BLAIN, nationally known psychiatrist and administrator in the field of mental health, on March 1 took the reins as director of California's Department of Mental Hygiene following announcement of his appointment as head of the state's largest agency by Governor Edmund G. Brown.

For ten years medical director of the American Psychiatric Association, Dr. Blain left that post last year to become professor of clinical psychiatry at the University of Pennsylvania in Philadelphia, and to serve as director of mental health training and research for the Western Interstate Commission for Higher Education (WICHE). He remained active with APA as director of its program for recruitment, distribution and utilization of psychiatrists. He also serves as a consultant to the Veterans Administration. At the time of his appointment, Dr. Blain had just completed a four-month tour of 14 western states to examine their programs for WICHE in line with efforts of its Council on Mental Health Training and Research to establish interstate cooperative programs for use of training and research facilities.

Much the same type of cooperative use of California's facilities, involving public and private agencies and use of all community resources, was outlined by Dr. Blain on taking office as State Director of Mental Hygiene. He said his plans would rely heavily on prevention, research, and methods of obtaining and training more personnel in the psychiatric field.

Dr. Blain's rich background as a mental health administrator includes organization of psychiatric services in the Merchant Marine during World War II, and spearheading of the movement for reforms in veterans' psychiatric care as postwar chief of psychiatry for the Veterans Administration. He has also written numerous articles for professional publications. His choice as director, Governor Brown stated, was unanimous among an informal Governor's Advisory Committee made up of Dr. Frank Tallman, former mental hygiene director; Dr. Karl Bowman, professor emeritus of psychiatry at the University of California Medical School and former head of Langley Porter Neuropsychiatric Institute; and Superior Judge W. B. Neeley of Los Angeles.

Dr. Blain was born in China, the son of missionary parents. He graduated from Washington and Lee, then took his medical degree at Vanderbilt University. Married, he is father of a son who is also now a student at Washington and Lee. Dr. Blain's medical affiliations include certification in psychiatry by the American Board of Psychiatry and Neurology, fellowship in the American Psychiatric Association and the American College of Physicians, and membership in the American Medical Association, American Psychoanalytic Association, American Psychopathological Association, Inc., Association for Research in Nervous and Mental Disease, American Sociological Society, plus numerous consultative affiliations.

### **Medical Examinations—When Required by Law**

THE 1957 California legislative session resulted in enactment of Senate Bill 1093 which substantially altered and broadened the discovery procedures in civil litigation. This legislation was modeled primarily upon the discovery rules in effect in the Federal Courts and became effective on January 1, 1958.

These discovery procedures are so new that their full impact has not, as yet, been fully realized by the public and the members of the bar. In some respects, the legislation will affect in one fashion or another the practice of medicine. This article will deal only with a restricted portion of this legislation related to the provisions for physical and mental examinations of people in civil litigation. The pertinent sections of the California Code of Civil Procedure are section 2032, which generally provides for the authority to require submission of a party to physical, mental or blood examination, and section 2034, which provides certain sanctions for failure to comply with an order of court.

Section 2032, in part, provides that, in an action in which the mental or physical condition or the blood relationship of a party is in controversy, the court may order the party to submit to a physical or mental or blood examination by a physician. The order may be made only for good cause shown and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made. If requested, the party causing the examination to be made shall deliver to the person examined or party to the action a copy of a detailed written report of the examining physician, setting out his findings and conclusions, and if a physician fails or refuses to make such a report, the court may exclude his testimony if offered at the trial. In this connection, it should be noted that in *Jorgensen v. Superior Court*, 163 ACA 589, the

District Court of Appeal of the State of California held that there is no attorney-client privilege which would cloak the report and justify a refusal upon demand to deliver a copy to the other party in the action, or the person examined.

The court further stated that if such reports *were* privileged, that privilege would be waived by virtue of procuring the physician's examination upon which the report is based.

Section 2034 of the California Code of Civil Procedure, in part, provides that, if any party refuses to obey such an order, the court may make an order that the physical or mental or blood condition of the person sought to be examined shall be taken to be established for the purposes of the action in accordance with the claim of the party seeking the examination and an order refusing to allow the disobedient party from introducing evidence of the physical or mental or blood condition of the person sought to be examined. Although the code provides penalties for disobedience of the order, the usual contempt proceedings will also apply.

Prior to the adoption of the code sections, there was no express statute permitting or compelling a physical examination of a party by a physician. However, the courts, in several cases, held that a trial court could compel such examinations under other sections of the Code of Civil Procedure. As a practical matter, the parties often stipulated that such an examination be performed and this custom is still followed by attorneys.

The statute contains several safeguards for the litigants. It requires the party seeking the order for examination to make a motion with proper notice to all other parties and to the person to be examined. This assures a full and open hearing by the court which permits all individuals to present their arguments.

The notice of motion, a formal legal document giving the parties notice of the hearing, must specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made. Any disagreements on these points can be stated at the hearing before the court.

The court, in the exercise of its power to order the examination would have due regard for the feelings of the person to be examined and the proprieties of the case, to the extent that the ends of justice will permit in any particular legal action.

The physician or surgeon chosen by the litigants or appointed by the court and undertaking to conduct the examination should follow closely the order of the court specifying the place, manner, condition and scope of the examination. (It should be noted, however, that in the majority of cases such examinations will be conducted pursuant to the stipulation